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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,632	09/25/2003	Patrick M. Commarford	BOC9-2003-0061 (431)	6850
40987 7590 10/17/2007 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER STORK, KYLE R	
			ART UNIT 2178	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/670,632	Applicant(s) COMMARFORD ET AL.	
	Examiner Kyle R. Stork	Art Unit 2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-14 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-14 and 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This final office action is in response to the amendment filed 13 August 2007.
2. Claims 1, 4-14, and 17-30 are pending. Claims 29-30 are newly added. Claims 1, 5, 14, 18, and 27-28 are independent claims.

The rejection of claims 5-13, 18-26, and 28 under 35 USC 103 over Chinn et al. (US 2002/0010715, filed 26 July 2001, hereafter Chinn) and further in view of Schuba et al. (US6725378, filed 15 April 1999, hereafter Schuba) has been withdrawn as necessitated by the amendment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 14, 17, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinn et al. (US 2002/0010715; filed July 26, 2001, hereafter Chinn) in view of Schuba et al. (US 6725378; filed April 15, 1999; hereafter Schuba), and further in view of Ladd et al. (US 6269336, filed 2 October 1998, hereafter Ladd).

Regarding independent claim 1, Chinn teaches determining an interactive voice response event corresponding to a request for help (p.4, para. 54; p.12, para. 143, 148)

since Chinn teaches the user requesting help and the system providing an audible help message and the system is capable of interacting with the user if more information is needed.

Chinn further teaches classifying said event as at least one of a default help request and a user initiated help request (p.12, para. 143, 148; p.15, para. 175) since Chinn teaches a help message when a user requests help and a help message as a default when the system does not recognize the request and needs more information.

Chinn further teaches setting a time for receiving user input to a default value if said event is classified as said default help request (p.12, para. 144; p.16, para. 183-185) since Chinn teaches setting a timeout value for a user response when a help message is requested.

Chinn further teaches interactive voice response application takes programmatic action upon expiration of said time for receiving user input (p.12, para. 139, 144; p.16, para. 184, 185) since Chinn teaches replaying a message or ending a session when a timeout occurs or when the timeout threshold is reached.

Chinn teaches setting a time for receiving user input to a value if said event is classified as said user initiated help request (p.12, para. 144; p.16, para. 183-185) since Chinn teaches setting a timeout value for a user response when a help message is requested. Chinn does not disclose setting the time to a value less than the default value. Schuba teaches setting a time to a value less than the default (col. 10, lines 25-28). It would have been obvious to one of ordinary skill in the art, having the teachings of Chinn and Schuba before him at the time the invention was made, to modify setting a

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time as taught by Chinn to include setting a time to less than the default as taught by Schuba, because Chinn teaches setting a timeout period for user response (p.12, para. 144; p.16, para. 183-185) and Schuba teaches setting a timeout period to a value less than the default (col. 10, lines 25-28) so the timeout period taught by Chinn could be set to a value less than the default.

Chinn fails to specifically disclose determining if an event is one of a no-match event and a time-out event, wherein the no-match event occurs when the event does not correspond to a user option provided by the application, and wherein the time-out event occurs if a user fails to respond to an application prompt within a predetermined duration of time. However, Ladd discloses determining if an event is one of a no-match event and a time-out event, wherein the no-match event occurs when the event does not correspond to a user option provided by the application, and wherein the time-out event occurs if a user fails to respond to an application prompt within a predetermined duration of time (Figures 5a-5c; column 13, line 66- column 16, line 19). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Ladd with Chinn, since it would have allowed a user to receive help in response to a no-match event (column 13, line 66- column 16, line 19).

Regarding dependent claim 4, Chinn teaches the method of claim 1, wherein said default value is at least six seconds and wherein said value less than said default value is at most three seconds (p.12, para. 144) since Chinn teaches the value as a number of seconds.

Regarding independent claim 5, the applicant discloses the limitations substantially similar to those in claim 1. The same rejection is incorporated herein.

Regarding dependent claim 6, Chinn teaches the method of claim 5, further comprising the steps of once said second help message has been presented, starting a no-response timer (p.16, para. 183-185) since Chinn teaches a setting a timer for a timeout value after each message is played and incrementing a timeout value until a threshold is reached.

Chinn further teaches if said no-response time for said second help message exceeds said time-out threshold, performing a previously established IVR operation (p.16, para. 185) since Chinn teaches returning to a main menu or playing a last resort message if there is no response.

Regarding dependent claim 7, Chinn teaches the method of claim 6, wherein said previously established IVR operation includes resetting said time-out threshold to said default time (p.16, para. 184, 185) since Chinn teaches resetting the timer.

Regarding dependent claim 8, Chinn teaches the method of claim 6, wherein said previously established IVR operation includes audibly presenting a help message (p.16, para. 185) since Chinn teaches presenting a last resort message.

Regarding dependent claim 9, Chinn teaches the method of claim 5, wherein said previously established IVR operation includes at least one of cycling back to an initial help message, establishing a connection with a human agent, and establishing a connection with an automated system (p.16, para. 185) since Chinn teaches cycling back to a main menu for a user to make further selections.

Regarding dependent claim 10, the claim reflects the method for performing the operations of claim 1 and is rejected along the same rationale.

Regarding dependent claim 11, Chinn teaches the method of claim 5, further comprising the steps of after said presentation of said first help message has begun, receiving an explicit user request for help (p.15, para. 175) since Chinn teaches a user requesting help at any time during the operation.

Chinn further teaches if said non-response threshold equals the default time, decreasing said time-out threshold (p.16, para. 183-185) since Chinn teaches increasing a counter for each timeout which lowers the threshold until it is reached.

Regarding dependent claims 12 and 13, the claims reflect the methods for performing the operations of claim 4 and are rejected along the same rationale.

Regarding claims 14 and 18-26, the claims reflect the machine-readable storage having stored thereon computer programs for performing the operations of claims 1, 4-13 respectively and are rejected along the same rationale.

As per claim 17, the applicant discloses the limitations similar to those in claim 4. Claim 17 is similarly rejected.

Regarding independent claim 27, the claim reflects the system for performing the operations of claim 1 and is rejected along the same rationale.

Regarding independent claim 28, the claim reflects the system for performing the operations of claim 5 and is rejected along the same rationale.

Regarding dependent claim 29, Chinn, Schuba, and Ladd disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Chinn discloses:

if the event is a default help request, determining whether the default help request is a no-match event or whether the default help request is a time-out event (paragraphs 0143, 0148, and 0175)

Chinn fails to disclose performing one of the plurality of programmatic actions if the default help request is a no-match event and performing a different one of the plurality of programmatic actions if the default help request is a time-out event. However, Ladd discloses performing one of the plurality of programmatic actions if the default help request is a no-match event and performing a different one of the plurality of programmatic actions if the default help request is a time-out event (Figures 5a-5c; column 13, line 66- column 16, line 19). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Ladd with Chinn, since it would have allowed a user to receive help in response to a no-match event (column 13, line 66- column 16, line 19).

Regarding dependent claim 30, the applicant discloses the limitations substantially similar to those in claim 29. Claim 30 is similarly rejected.

### ***Response to Arguments***

4. Applicant's arguments filed 13 August 2007 have been fully considered but they are not persuasive.



The applicant's initial argument is based upon the belief that the prior art fails to teach responding differently to different help requests (page 11). However, although the applicant alleges the examiner relies upon Chinn to teach this feature (page 11), this is not accurate. While Chinn discloses obtaining an event as either a default help request and a user initiated help request (paragraphs 0143, 0148, and 0175). Instead, the examiner relies upon Ladd to disclose determining if an event is one of a no-match event and a time-out event, wherein the no-match event occurs when the event does not correspond to a user option provided by the application, and wherein the time-out event occurs if a user fails to respond to an application prompt within a predetermined duration of time (Figures 5a-5c; column 13, line 66- column 16, line 19). Therefore, Ladd discloses performing different operations based upon the method of the request.

The applicant further argues that Schuba is non-analogous art based upon Schuba being based upon using time-outs in conjunction with the sending of data packets (pages 12-13). However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both the applicant's claimed invention and Schuba send data packets of information. The applicant's claimed invention discloses help data being transmitted in the data packet. While Schuba does not specifically disclose the data packets containing help data, Schuba in combination with Ladd and Chinn renders obvious sending help information within the data packets of Schuba.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle R. Stork whose telephone number is (571) 272-4130. The examiner can normally be reached on Monday-Friday (8:00-4:30).

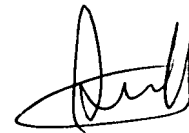
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kyle R Stork  
Patent Examiner  
Art Unit 2178

kr



STEPHEN HONG  
SUPERVISORY PATENT EXAMINER